

CITY OF MUSKEGON  
PLANNING COMMISSION  
REGULAR MEETING  
MINUTES

**May 15, 2008**

Vice Chairman B. Turnquist called the meeting to order at 4:08 p.m. and roll was taken.

MEMBERS PRESENT: B. Turnquist, L. Spataro, S. Warmington, B. Larson, B. Mazade

MEMBERS ABSENT: J. Aslakson, excused; T. Harryman, excused; T. Michalski, excused;  
B. Smith, excused

STAFF PRESENT: L. Anguilm, D. Leafers

OTHERS PRESENT: D. Hudelson, 1868 Ray; R. Piggee, 760 Holbrook; D. Braden, 1786 Wood; A. Bravata, Caledonia MI; J. Wilson, 473 E. Laketon; J. McPherson, 1435 Hillcrest

APPROVAL OF MINUTES

A motion that the minutes of the regular meeting of April 10, 2008 be approved, was made by S. Warmington, supported by L. Spataro and unanimously approved.

NEW BUSINESS/PUBLIC HEARINGS

Hearing; Case 2008-10: Request to vacate the east/west section of the alley and the southerly 60 feet of the north/south section of the alley in the City of Muskegon's Westermans Subdivision, bounded by Ray Street, Laketon Avenue, Getty Street, and Holbrook Avenue, by David Hudelson, 1868 Ray Street. L. Anguilm presented the staff report. The east/west section of the alley runs parallel to the side of the applicant's home at 1868 Ray Street. Across the alley from his house is property owned by Emanuel Tabernacle Church. There is a guard rail and a fence running along the alley that separates it from the church property. Staff drove the alley, as well as both Ray and Getty Streets. No homes backing up to the alley need the alley for access to their property, except the applicant. His garage takes access off the alley, and he has no other driveway available to him for parking. Closing the alley would not pose a hardship to other residents, but would allow the applicant to access his garage and use the present alley for his driveway. The vacation would also stop the through traffic primarily using the alley for quick access to the convenience store on the corner of Laketon and Getty. A letter from the applicant was provided. The Fire Department has no issues with this request. The Engineering Department and Department of Public Works have some concerns. The City has a sanitary sewer located in the north/south section of the alley. Muskegon County Wastewater Systems owns and operates a 36" sewer force main in that portion of the alley as well. An easement agreement would need to be obtained from the applicant and recorded with the Register of Deeds, giving unrestricted access to the east/west portion of the alley to both the City and the County. The applicant is aware of this requirement, and agrees to provide that document to the City. Staff recommends approval of the request.

B. Larson asked if the City specified the method of closing off that portion of the alley. L. Anguilm stated that it was usually up to the property owner. S. Warmington asked D. Hudelson what he planned on using to close it off. He stated that he would probably use chain link fence. Board members suggested that he also place signs or something in addition to the fence that would get drivers' attention. R. Piggee represented the neighboring church, and was in favor of the request.

A motion to close the public hearing was made by S. Warmington, supported by B. Larson and unanimously approved.

A motion that the vacation of the east/west section and the southerly 60 feet of the north/south section of the alley located in the City of Muskegon's Westermans Subdivision, bounded by Ray Street, Laketon Avenue, Getty Street and Holbrook Avenue, be recommended to City Commission for approval, based on compliance with the City's 1997 Master Land Use Plan, with the conditions that 1) all utility easements will be retained, and 2) an easement agreement be provided by the applicant which gives unrestricted access to the City of Muskegon and Muskegon County Wastewater System for access to the sewer lines located in the north/south section of the alley, was made by S. Warmington, supported by B. Larson and unanimously approved.

Hearing; Case 2008-11: Request to rezone the property at 381 E. Laketon Avenue from B-2, Convenience and Comparison Business District, to B-4, General Business District, by Aron Bravata, B & D Holdings. L. Anguilm presented the staff report. The site is a large parcel that was previously the site of the Plumbs grocery store. The building has been physically divided on the inside to create two spaces. Currently, the space to the west houses Dollar General, and the east portion of the building is vacant. The applicant is requesting a rezoning from B-2, Convenience and Comparison Business, to B-4, General Business, so that he can have a used car lot with a showroom located on the east portion of the property. The property to the north, across Laketon Avenue, is zoned R-1, Single Family Residential, as is the property to the south. The property to the west is zoned B-4, and the property to the east is zoned B-2. The Master Plan speaks very little to the issue of commercial properties along Laketon Ave. in the area. The Future Land Use Map shows this area as residential, but development of residential in a commercial building is unlikely along this major street. B-2 zoning districts are "designed for the convenience and community shopping needs of the residents in the Muskegon Area". The store on the site tends to serve the needs of the neighborhood, considering the lack of a grocery store in the area. Whether a used car lot would also serve the needs of the neighborhood would be speculative, at best. The B-4 zone would allow more intense uses on the site, such as auto service stations, stores selling second hand goods, veterinarian clinics without outdoor kennels, restaurants, assembly of small parts, business schools or private schools, just to name a few. While some of these uses would not be offensive to the residential neighborhoods located to the north and south, others would create increased traffic and noise. Vice Mayor S. Gawron sent an e-mail opposing the special land use permit, which is the topic of the next case. Butch Rouwhorst, Ryke's Bakery, 1788 Terrace St, called and stated that he has no problem with the rezoning or the special land use permit, as long as it doesn't "turn into a junkyard". James Smith, 1770 Smith Street, called to say that he is opposed to a car lot at this location. Staff recommends denial of the request to rezone the subject property from B-2, Convenience and Comparison Business district to B-4, General Business district, because the request does not conform to the goals and recommendations of the City's 1997 Master Plan and Future Land Use Plan.

L. Spataro asked if the rezoning would split the parcel, with half being B-2 and the other being B-4. L. Anguilm stated that the entire parcel would be B-4. D. Braden lived in the area and was opposed to the request. A. Bravata owned the building. He stated that he would like to make improvements to it, but cannot do it without having another tenant in there. He stated that it would be a clean, well-

run business. B. Larson asked why he chose this location. A. Bravata stated that he knew the owner of the proposed car lot and had made a deal with him to get him to open a business there. He stated that any repair work would be done off-site, and this would be a show and sell lot only. B. Turnquist asked if the dollar store needed more space. A. Bravata stated that they were not planning to expand. The applicant and board members discussed the layout of the building, as shown on the drawings submitted. J. Wilson was a pastor in a nearby church. She said it didn't look like there was enough room there for a car lot, and she was opposed to the request. B. Turnquist asked A. Bravata how long he had owned the property. A. Bravata stated that he had owned it for about a year and a half. He stated that the rezoning would still be helpful in attracting tenants, even if the car lot was not allowed.

A motion to close the public hearing was made by B. Larson, supported by B. Mazade and unanimously approved.

L. Spataro stated that it had been his experience that car lots come and go, and he was concerned about other uses that would be allowed in a B-4 zoning. He was not comfortable with some of those other uses, since this was a large parcel located close to a residential area. B. Turnquist was also concerned about the proximity to residential areas. B. Mazade was opposed to adding any intensity to the zoning in that area.

A motion that the request to rezone the property located at 381 E. Laketon Avenue from B-2, Convenience and Comparison Business district to B-4, General Business district, as described in the public notice, be recommended for denial to the City Commission pursuant to the City of Muskegon Zoning Ordinance, and the determination of lack of compliance with the intent of the City Master Land Use and zoning district intent, was made by B. Mazade, supported by L. Spataro and approved, with S. Warmington voting nay.

Hearing; Case 2008-12: Request for a Special Land Use Permit, per Section 1301 (#1) of Article XIII (B-4, General Business Districts) of the Zoning Ordinance to allow a used car lot with show-room in a B-4 district at 381 E. Laketon Avenue by Aron Bravata, B & D Holdings. L. Anguilm presented the staff report. The building that is the subject of this case is the former Plumbs grocery store, which currently has been split into two commercial spaces. The space to the west is used as a general store. The space to the east is presently vacant and is the subject of this request. The property is currently zoned B-2, Convenience and Comparison Business, but the applicant has applied for a rezoning to B-4, General Business, in the previous case. The zoning to the north and south is R-1, Single Family Residential, and to the east is B-2. The request is to allow a used car lot and showroom on the east side of the property. The Planning Commission may regulate hours of operation as a condition of approval. Conditions of approval for sales space for new and used automobiles are as follows: a) ingress and egress to the outdoor sales area shall be at least sixty (60) feet from the intersection of any two (2) streets, and b) no major repair or major refinishing shall be done on the lot. The plans for the outdoor sales area meet requirement "a". The site plan shows a curb cut off of Wood Street at the rear of the property. The Planning Department has the following conditions of approval: a) no cars may be displayed in the clear vision area at the corner of Wood and Laketon, b) any new lighting installed on the site must be 100% cut-off style, c) parking lot must be striped to show customer parking and display parking, and d) indicate snow storage area. The Engineering Department has the following condition of approval: there can be no changes to the existing conditions in the public right-of-way (drives, sidewalks, etc). The Fire Department has the following condition of approval: the fire lane shall be maintained at all times. Vice Mayor Gawron sent an e-mail opposing the request, a copy of which was included in the meeting packet. Staff has received no other comments regarding this request. Staff recommends denial of the request because the increased traffic would be a nuisance to the neighborhood.

A. Bravata stated that he was losing money on the building and needed another tenant in order to remain in business. He had not had any other interest in the property. Board members reiterated their concerns as discussed in the previous case.

A motion to close the public hearing was made by L. Spataro, supported by B. Larson and unanimously approved.

A motion that the request for a Special Land Use Permit, per section 1301 (#1) of Article XIII of the Zoning Ordinance to allow for a used car lot and showroom in a B-4 zoning district at 381 E. Laketon Avenue, by Aron Bravata, B & D Holdings, be denied, based on lack of compliance with the City's Master Land Use Plan and conditions set forth in Section 2332 of the City of Muskegon Zoning Ordinance, was made by B. Larson, supported by L. Spataro and unanimously approved.

Hearing; Case 2008-13: Request for a Special Land Use Permit, per Section 701 (#7) of Article VII (RM-1, Low Density Multiple-Family Residential Districts) of the Zoning Ordinance to allow for a home for the aged and adult day care in an RM-1 district at 2140 Valley Street by Joan Lillian McPherson, Holy Trinity Care Center. L. Anguilm presented the staff report. This is presently the site of Tri-Valley Academy school. The parcel also contains Holy Trinity Church. There is a special land use permit in place for the school, issued in September 1997. If that use ceases to exist, the permit would become null and void. The school appears to be closing in June, due to lack of funding. Should that occur, the applicant wishes to rehab the school building into housing for the aged and an adult day care facility. The property is zoned RM-1, Low Density Multiple-family Residential. The property to the north and east is zoned I-1, Light Industrial. The property to the south is zoned RM-1, and to the west is zoned R-1, Single Family Residential. The proposed used should create less traffic on the residential street than presently occurs with the buses and other vehicular traffic for the school. A site plan for an addition to the church sanctuary was approved in 2005, which showed the school and associated parking on the same plan. Since there will be no change to the building footprint, a detailed site plan isn't necessary for this request. The property owner will be held accountable to the previous site plan. Parking is adequate for the proposed facility, since there are presently two parking areas on the site – one to the south used by the school, and one to the north, used primarily by the church. Engineering, DPW, and Fire have no issues with the proposed use. Staff has received no comments regarding this request and recommends approval with the conditions listed in the staff report.

J. McPherson described the proposed project and stated that they wanted to have this back-up plan in place in case the school did close. B. Larson asked who owned the property. J. McPherson stated that COGIC was the owner, and they were a tax exempt entity under the umbrella of Holy Trinity. There would be no change of ownership. She distributed a flyer showing the different amenities that would be offered at the facility. S. Warmington asked how many residents there would be. J. McPherson stated that the maximum would be 20. B. Turnquist asked if it would be an assisted living type of facility, and what kind of adult day care there would be. J. McPherson stated that it would be assisted living for residents over 60 years old, and explained the day care program. B. Turnquist stated that it seemed like a large facility for only 20 residents. J. McPherson stated that she wanted to start out small to see how things went. She may expand at a later time. L. Anguilm stated that the current zoning allowed a maximum of 20 residents, but the applicant could apply to have the property rezoned if she did decide to expand. L. Spataro asked if it would be a state-licensed facility. J. McPherson stated that the state did not require a license if there was under 21 residents, but she was going to go through the process to get licensed anyway.

A motion to close the public hearing was made by L. Spataro, supported by B. Turnquist and unanimously approved.

A motion that the request for a Special Land Use Permit, per section 701 (#7) of Article VII of the Zoning Ordinance, to allow for a home for the aged and adult day care in an RM-1 zoning district at 2140 Valley Street, be approved, based on compliance with the City's Master Land Use Plan and conditions set forth in Section 2332 of the City of Muskegon Zoning Ordinance with the conditions that 1) Tri-Valley Academy will cease to operate as a school, 2) the owner/applicant shall permit the zoning administrator or other zoning staff in the premises at reasonable times to review compliance with this permit, and 3) the Special Land Use Permit affidavit shall be recorded with the register of deeds prior to occupying the building, was made by S. Warmington, supported by L. Spataro and unanimously approved.

#### NEW BUSINESS

None

#### OLD BUSINESS

None

#### OTHER

There being no further business, the meeting was adjourned at 5:10 p.m.

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